

## REMARKS

Claims 1-3 and 6-11 are pending in this application. Claims 1-2 and 9-11 have been withdrawn as being directed to a non-elected invention. By this Amendment, claim 3 is amended to incorporate the subject matter of now cancelled claims 4 and 5. No new matter is added.

Applicants note that a new rejection of claim 6 that was not necessitated by Applicants' amendment (changing "said" to --an-- changing "the to --a--) was made. Thus, it appears that the Office Action was prematurely deemed "final." According to the U.S. Patent and Trademark Office Manual of Patent Examining Procedure (MPEP), "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement..." (MPEP 706.7(a)). "If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection" (MPEP 706.07(c)). Applicants respectfully request that the examiner reconsider and withdraw the finality of the rejection.

Applicants thank the Examiner for the indication that claims 7 and 8 are allowed. Because amended claim 3 and claim 6 are patentable for the reasons discussed below, it is submitted that the application is now in condition for allowance.

Claims 3-5 continue to be rejected under 35 U.S.C. § 103(a) as being obvious over Majkrzak (U.S. Patent No. 6,294,038) in view of Voy et al. (U.S. Patent No. 5,351,426). A new rejection of claim 6 has been made under 35 U.S.C. § 103(a) as being obvious over Majkrzak and Voy et al. and further in view of Nash (U.S. Patent No.

5,674,345) and Otruba (U.S. Patent No. 5,486,253). Claims 4-5 are canceled rendering moot the rejection thereof. These rejections are traversed as they may apply to amended claims 3 and 6.

Present claims 3 and 6 require, *inter alia*, that:

- 1) a label-pasting device having "an adhesive applier for applying hot-melt pressure-sensitive adhesive
- 2) to a label-material sheet composed of only label material just before cutting out the labels;
- 3) the adhesive applier applies hot-melt adhesive to an area within the outline of, and smaller than, each label portion of the label material sheet to be cut out by the die cutter and wherein the label-pasting device produces labels without using peeling-off paper;

Because labels are produced without using peeling-off paper, low-cost label pasting is enabled. In addition, hot melt adhesive is prevented from overflowing the edge of labels despite the temperature, hence enabling the maintaining of quality control. These effects are indispensable for repeated opening and closing of a package.

For at least the above reasons, reconsideration and withdrawal of the rejection of claims 3 and 6 under 35 U.S.C. § 103 are respectfully requested.

Applicants submit that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned attorney by telephone if it is believed that such contact will expedite the prosecution of the application.

In the event that this paper is not considered to be timely filed, Applicants hereby petition for an appropriate extension of time. The Commissioner is authorized to charge payment for any additional fees which may be required with respect to this paper to our Deposit Account No. 01-2300, **making reference to attorney docket number 107390-00005.**

Respectfully submitted,



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